

UNITED STATES DISTRICT COURT
Northern District of New York

American Underground Engineering, Inc.

vs.

**JUDGMENT
IN A CIVIL CASE**

City of Syracuse

Case number: **5:00-cv-278** (lead)
Case number: 5:00-cv-1127 (member)

X Jury Verdict. This action came before the Court for a trial by jury. The issues have been tried and the jury has rendered its verdict.

X Decision by Court. This action came to a trial, hearing or motion before the Court. The issues have been tried or heard and a decision has been rendered.

IT IS ORDERED AND ADJUDGED:

On July 1, 2010 the jury rendered a verdict in favor of the Plaintiff for breach of contract by the Defendant awarding damages as follows:

| | |
|--|-----------------|
| Actual job costs for work on project up to time work ceased: | \$10,759,804.50 |
| Percentage found to compensate for profits and overhead expenses: | 15% |
| 15% of actual job costs: | \$1,613,970.68 |
| Final amount of damages after combining both figures above and then deducting all payments Plaintiff had already received for work under contract: | \$7,306,021.64 |

On October 7, 2011 the Court rendered a post-trial motion decision reducing the amount of damages awarded by the jury. The Court finds that the jury mistakenly awarded \$1,613,970.68, representing an additional 15% for profits and expenses not realizing that this percentage was already built into the expense figures. Therefore,

| | |
|----------------------------|----------------|
| Reduced amount of damages: | \$5,692,050.96 |
|----------------------------|----------------|

Further, Defendant's request to reduce the damages award by \$379,372.96, represented by Plaintiff to be home office overhead expenses as a result of the breach of contract is Granted.

| | |
|---|-----------------------|
| TOTAL Reduced amount of damages: | \$5,312,678.00 |
| Prejudgment interest shall be calculated in accordance with New York State law. | |

Defendant's motion for judgment as a matter of law, pursuant to Rule 50(b) of the Federal Rules of Civil Procedure, is **Denied**.

Defendant's motion for separate findings of fact and conclusions of law pursuant to Rule 52(a)(1) of the Federal Rules of Civil Procedure, is **Denied**.

All of the above pursuant to a jury verdict rendered on July 1, 2010 before the Hon. Frederick J. Scullin, Jr. and a motion decision rendered on October 7, 2011 by the Hon. Frederick J. Scullin, Jr.

October 13, 2011

Lawrence K. Baerman, Clerk

s/

Barbara J. Woodford
Deputy Clerk